

**Attachment A**

**In The Matter Of:**

*AHERF v.*  
**PRICEWATERHOUSECOOPERS, LLP**

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**ROBERT BERLINER**

*February 16, 2005*

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**BERLINER, ROBERT - Vol. 1**



<p style="text-align: right;">Page 9</p> <p>1                   Robert Berliner  2 you reviewed and I can direct your attention to  3 page 2.  4           A. Mr. Kite.  5           Q. Yes, Steven Kite?  6           A. Yes.  7           Q. Have you reviewed the expert report  8 of Mr. Regan?  9           A. No, I have not.  10          Q. Do you know who Mr. Regan is?  11          A. Yes, I do.  12          Q. Were you aware that he was retained  13 as an expert in this matter?  14          A. I was.  15          Q. By Jones Day?  16          A. Correct.  17          Q. What knowledge do you have about  18 the opinions expressed by Mr. Regan?  19          A. None whatsoever.  20          Q. You don't know whether he agrees  21 with you or disagrees with you?  22          A. I assume if he disagreed with me I  23 would have heard about it, but I don't know for  24 certain.  25          Q. Have you talked with lawyers from</p>	<p style="text-align: right;">Page 11</p> <p>1                   Robert Berliner  2 billed for their time, is that right?  3           A. Correct.  4           Q. Do you know what the total number  5 of hours is that you've spent on this project,  6 sir?  7           A. Yes, I do.  8           Q. How many hours is that?  9           A. Approximately 10,000.  10          Q. How many hours do you know have the  11 people who have worked with you spent?  12          A. Yes, I do.  13          Q. How many hours is that?  14          A. Approximately 8800.  15          Q. You said just now that you believed  16 you spent 10,000 hours, do you mean 1,000 or  17 10,000?  18          A. I thought the question was how many  19 hours of my team in total, 10,000.  20          Q. Of those hours, about how many  21 hours did you personally spend on this project?  22          A. I spent approximately through the  23 end of January, approximately 1200 hours.  24                    MR. RYAN: Let me mark this please  25 as Exhibit 2800.</p>
<p style="text-align: right;">Page 10</p> <p>1                   Robert Berliner  2 Jones Day about any opinions expressed by  3 Mr. Regan?  4           A. No.  5           Q. Have you reviewed the expert report  6 of Mr. Wallace, James Wallace?  7           A. No.  8           Q. Do you know who he is?  9           A. No, I don't.  10          Q. When were you first retained in  11 this matter, Mr. Berliner?  12          A. I was retained in this matter in  13 2000.  14          Q. So four years before you rendered  15 your first expert report?  16          A. A little over four years, yes.  17          Q. You are being paid by the hour for  18 your work on this case, is that right, sir?  19          A. That's correct.  20          Q. What is your hourly rate?  21          A. Mine?  22          Q. Yes.  23          A. 675 an hour.  24          Q. Then I gather there's been a team  25 of people who have worked with you who have also</p>	<p style="text-align: right;">Page 12</p> <p>1                   Robert Berliner  2                    MR JONES: Before do you that, I  3 was told that at the last deposition we were  4 moving into the 6000s as a convention for  5 experts and I was given the number that Ms.  6 Meaden left off with if that's what you would  7 prefer, if you don't prefer that that's fine. I  8 was told that she left off at 6008, that we were  9 in expert exhibits at this point.  10                  MR RYAN: Sure, let me mark this  11 as 6009.  12                  (Document, marked Exhibit 6009  13 for identification.)  14          Q. Do you recognize Exhibit 6009,  15 Mr. Berliner?  16          A. It appears to be a billings  17 rendered in this case.  18          Q. Is it the case then that through  19 January 12, 2005 your firm has billed  20 \$2,870,000?  21          A. That's correct.  22          Q. Who is paying your bill, sir?  23                    MR JONES: Object to foundation.  24          A. I assume the Unsecured Creditors  25 Committee is paying the bills.</p>

<p>1                   Robert Berliner</p> <p>2     Q. It comes out of the amount that</p> <p>3     otherwise would be distributed to creditors of</p> <p>4     AHERF to your understanding, is that right?</p> <p>5     MR. JONES: Same objection.</p> <p>6     A. That's right.</p> <p>7     Q. I see toward the back of this</p> <p>8     exhibit about four pages from the end, three</p> <p>9     pages from the end, it seems that the first date</p> <p>10    on which you billed time on this matter is in</p> <p>11    August 2000? I'm on the third to last page.</p> <p>12    A. I believe that's correct, but on my</p> <p>13    copy that doesn't appear on the third from last</p> <p>14    page.</p> <p>15    Q. I apologize. That is consistent</p> <p>16    with the time that you believe that you first</p> <p>17    started to work on this matter?</p> <p>18    A. That's correct.</p> <p>19    Q. Who are the members of the team at</p> <p>20    the Marks Paneth &amp; Shron firm who worked with</p> <p>21    you on this matter?</p> <p>22    A. The principal member of the team</p> <p>23    was Stuart Zatkow who was assigned to this</p> <p>24    engagement from the outset and the other senior</p> <p>25    members of the team were Bill Holmes and to a</p>	<p>Page 13</p> <p>1                   Robert Berliner</p> <p>2     members of your team whose names I saw in these</p> <p>3     documents, I apologize but all I have is their</p> <p>4     last names. Who is Liz Atlas?</p> <p>5     A. Atlas?</p> <p>6     Q. Yes.</p> <p>7     A. I don't know, she must be a very</p> <p>8     junior member who did some more routine tasks.</p> <p>9     Q. How about Biddick?</p> <p>10    A. Biddick is a senior fellow but he</p> <p>11    would have had very little input. Probably in</p> <p>12    the very early stages he helped reviewing some</p> <p>13    of the SEC transcripts of depositions, I think</p> <p>14    he reviewed three at the very outset.</p> <p>15    Q. How about Carson?</p> <p>16    A. Carson again would have been a very</p> <p>17    junior person who I had no contact with.</p> <p>18    Q. How about Corchia?</p> <p>19    A. Corchia is my administrative</p> <p>20    assistant.</p> <p>21    Q. How about Friedler?</p> <p>22    A. Friedler is a supervisor in our</p> <p>23    litigation services department and we would have</p> <p>24    assigned some specific task or tasks to him.</p> <p>25    Q. How about Goldberg?</p>
<p>1                   Robert Berliner</p> <p>2     much lesser extent John Barron.</p> <p>3     Q. What did Mr. Zatkow do to assist</p> <p>4     you in this engagement?</p> <p>5     A. He reviewed documents, he helped</p> <p>6     draft the expert reports and he and I batted</p> <p>7     around issues and discussed the information that</p> <p>8     we came up with and debated those issues and</p> <p>9     reached consensuses and that kind of thing.</p> <p>10    Q. Are Mr. Zatkow's views also</p> <p>11    included in your expert reports?</p> <p>12    A. No. His views are communicated to</p> <p>13    me orally and I took them into consideration in</p> <p>14    forming my opinions. I don't believe he would</p> <p>15    disagree in any respect with any of the opinions</p> <p>16    expressed in the report.</p> <p>17    Q. Did Bill Holmes and John Barron</p> <p>18    play a similar role working with you on this</p> <p>19    engagement, a similar role to Mr. Zatkow?</p> <p>20    A. No.</p> <p>21    Q. How would you describe the roles</p> <p>22    that they played?</p> <p>23    A. They got involved much later on in</p> <p>24    helping to draft the report.</p> <p>25    Q. Let me ask you about some other</p>	<p>Page 14</p> <p>1                   Robert Berliner</p> <p>2     A. Again, I don't know that person, I</p> <p>3     had no contact with that person. These three</p> <p>4     who I say I had no contact with are not members</p> <p>5     of our litigation services department, but would</p> <p>6     be audit staff people who we thought it would be</p> <p>7     efficient to assign some of the early digging at</p> <p>8     much lower billing rates.</p> <p>9     Q. How about Henning?</p> <p>10    A. Henning is a very senior member of</p> <p>11    the department who may have been involved in</p> <p>12    some of the discussions of the GAAP matters.</p> <p>13    Q. Does he talk with you about what</p> <p>14    was or wasn't GAAP?</p> <p>15    A. He served as a consultant, I ran by</p> <p>16    some of the accounting issues with him and</p> <p>17    wanted to see whether or not he concurred or</p> <p>18    what views he had based upon the communication</p> <p>19    made to him. He was not involved at all in</p> <p>20    reviewing any documents.</p> <p>21    Q. How about Hernandez?</p> <p>22    A. A person I don't know. Again, he</p> <p>23    probably came from the audit staff to do some</p> <p>24    lower level work.</p> <p>25    Q. How about Lesser?</p>



12 was considerably less than that.  
13 Q. I believe you told us that you  
14 billed so far about \$2,870,000 on this  
15 engagement, do you know how much Coopers &  
16 Lybrand billed AHERF each year for the audit of  
17 its financial statements?

17 its financial statements.  
18 A. I don't recall the figure, I think  
19 it was substantially less.

20 Q. Could you turn please to your main  
21 report. In the future when I refer to your  
22 report I'm going to be referring to this large  
23 document, the expert report of September 3.  
24 Specifically to page 2 of the front part of the  
25 report, does section C headed "Summary of

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1 Robert Berliner  
2 a careful review of thousands of pages, so I  
3 can't tell you whether or not the term false or  
4 the term misleading appears in the GAAP  
5 literature.

6 Q. GAAP speaks, doesn't it, to whether  
7 financial statements are presented fairly?

8       A. They do, in conformity with  
9 generally accepted accounting principles.

10 Q. When you state that you formed the  
11 opinion that the financial statements of AHERF  
12 were materially false and misleading, do you  
13 mean anything different by that than to say that  
14 they were not presented fairly in your view in  
15 accordance with generally accepted accounting  
16 principles?

17       A. Yes, I do. There can be a  
18 violation of generally accepted accounting  
19 principles that may not have a material effect  
20 on the financial statements. As you may notice  
21 in the summary of opinions, I entitled the  
22 opinions in this section as "Violations of  
23 GAAP". In this opinion A I'm expressing the  
24 view that those violations weren't material to  
25 this '96 and '97 financial statements that

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1 Robert Berliner  
2 caused those financial statements to be  
3 materially false and misleading.

4 Q Let me ask my question again with  
5 the concept of materiality added to it. When  
6 you say then in your opinion the financial  
7 statements of AHERF were materially false and  
8 misleading, do you mean to say by that anything  
9 different from saying that they were not  
10 presented fairly in all material respects in  
11 accordance with generally accepted accounting  
12 principles?

13 A Yes, that opinion states that the  
14 financial statements were not presented fairly  
15 in all material respects in conformity with  
16 generally accepted accounting principles.

17 Q. In opinion A or GAAP opinion A I  
18 take it you are addressing the financial  
19 statements of consolidated AHERF for those two  
20 years, is that right?

21 A. That's correct.

22 Q. Have you formed any opinion as to  
23 whether the audited financial statements of  
24 AHERF as of June 30, 1995 and for the year then  
25 ended were presented fairly in all material